

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05cv388-MU**

LENDINGTREE, INC.,

Plaintiff,

v.

**CYBER FINANCIAL NETWORK, INC.,
d/b/a MORTGAGE EXPO.COM and other,
as yet unknown, Internet websites,**

Defendants.

ORDER

THIS MATTER is before the Court on its own motion. In its pending Motion to Dismiss Complaint or, in the Alternative, to Stay or Transfer, Defendant Cyber Financial Network, Inc., asserts its intent to file a motion with the United States District Court for the Eastern District of New York asking that court to reopen its previously-dismissed action for declaratory judgment. That action had been dismissed when then-Defendant Lendingtree, Inc., expressed that it had no intent to file the current patent infringement action. It appears to this Court that a reopening of the New York case could substantially affect the outcome of Defendant's motion. However, despite the passage of nearly five months and some prodding by the Court, Defendant appears to have not yet filed its motion in New York. Defendant must do so now, or this action must be allowed to proceed in an expeditious manner.

IT IS THEREFORE ORDERED that Defendant has thirty (30) days from the issuance of this order to either file its motion to reopen in the United States District Court for the Eastern District of New York or else to inform this Court of its intent not to file such a motion. If the

motion is not filed in that time frame, the Court will proceed to decide Defendant's Motion to Dismiss on its merits.

Signed: April 10, 2006

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

